

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 10-CV-653
)	
MARK D. MITTELSTADT,)	
)	
Respondent.)	

DECLARATION

Robert Holzberger declares:

1. I am a duly commissioned Revenue Officer employed in Small Business/Self-Employed Compliance, Internal Revenue Service.

2. In my capacity as a Revenue Officer, I am conducting an investigation into the tax liability of Mark D. Mittelstadt for the following years: 2005, 2006, 2007, 2008, and 2009.

3. In furtherance of the above investigation and in accordance with section 7602 of Title 26, U.S.C., Revenue Officer Michael J. Majewski issued on August 27, 2010, an Internal Revenue Service summons to Mark D. Mittelstadt, to give testimony and to produce for examination books, papers, records, or other data as described in said summons. The summons is attached to the petition as Exhibit 2.

4. In accordance with section 7603 of Title 26, U.S.C., on August 27, 2010, I served an attested copy of the Internal

Exhibit 1

Revenue Service summons described in paragraph 3 above on the respondent, Mark D. Mittelstadt, by leaving it with respondent's pet-sitter, Ria Arndt, at the last and usual place of abode of the respondent, as evidenced in the certificate of service on the reverse side of the summons.

5. On September 13, 2010, the respondent, Mark D. Mittelstadt, appeared but did not comply with the summons by testifying and by producing the books, records, and other documents demanded in the summons.

6. On September 23, 2010, the Office of Chief Counsel issued a "last chance" letter to the respondent warning that these proceedings could be instituted for failure to honor the summons and rescheduling the appearance date for October 15, 2010. Respondent did not appear on October 15, 2010. His non-compliance continues to the date of this filing.

7. The books, papers, records, or other data sought by the summons are not already in the possession of the Internal Revenue Service.

8. All administrative steps required by the Internal Revenue Code for issuance of a summons have been taken.


9. As of the date that the summons was issued and served, and as of the day I signed this declaration, no recommendation

for criminal prosecution of Mark D. Mittelstadt has been made by the Internal Revenue Service to the United States Department of Justice. In addition, no Department of Justice referral, as described in 26 U.S.C. §7602(d), is in effect with respect to Mark D. Mittelstadt.

6. It is necessary to obtain the testimony and to examine the books, papers, records or other data sought by the summons in order to properly investigate the federal tax liability of Mark D. Mittelstadt for the following years: 2005, 2006, 2007, 2008, and 2009.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 21st day of October, 2010.



ROBERT HOLZBERGER
Revenue Officer